frontier

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May 17, 1996

BY OVERNIGHT MAIL

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-98

Dear Mr. Caton:

Enclosed for filing please find an original plus eighteen (18) copies, two of which are marked "Extra Public Copy," of the Comments of Frontier Corporation on dialing parity, number administration, notice of technical changes and access to rights-of-way issues in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: International Transcription Service (1)

Ms. Gloria Shambley (3)

Ms. Janice Myles (1 plus diskette)

9226.1

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local	)	**CC Docket No. 96-98**
Competition Provisions in the	)	
Telecommunications Act of 1996	)	

COMMENTS OF FRONTIER CORPORATION

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May 17, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	**CC Docket No. 96-98**
	)	

COMMENTS OF
FRONTIER CORPORATION

Frontier Corporation ("Frontier"), on behalf of its incumbent local exchange, competitive local exchange, interexchange and wireless subsidiaries, submits these comments on the dialing parity, number administration, notice of technical changes and access to rights-of-way issues set forth in the Notice initiating this proceeding.[1] The Commission is requesting comment on a number of technical matters set forth in the Telecommunications Act of 1996 ("Act"). In each of these areas, the Commission has already established rules (or other precedent exists) that the Commission may easily adapt to conform to the Act's requirements.

Dialing Parity (Notice, § II(C)(3)). The Commission seeks comment on the regulations it should adopt to implement the Act's dialing parity requirements.[2] To Frontier's knowledge, every state that has implemented intraLATA toll equal access has

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1 *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Dkt. 96-98, Notice of Proposed Rulemaking, FCC 96-182 (April 19, 1996) ("Notice").

2 47 U.S.C. § 251(b)(3).

utilized the two-PIC (primary interexchange carrier) method, under which a customer may choose both an interLATA toll carrier and an intraLATA toll carrier. A strict reading of the Act requires a similar capability for local calls as well.[3] The Commission should rely upon this precedent to implement the Act's dialing parity requirements for all calls -- long distance and local -- from the end-user's perspective.

In addition, the Commission should mandate that dialing parity be made available immediately for interstate, intraLATA calls[4] and otherwise as quickly as the Act permits. Thus, for states that have already implemented intraLATA presubscription, those implementing regulations should remain in effect and intraLATA presubscription should be required to go forward. With respect to the Bell companies in other states, the Act itself requires that dialing parity be made available no later than the authorization of an individual Bell company to enter the in-state, interexchange business or, at the outside, three years

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[3] This option does not raise the same technical issues as does presubscribing to a toll carrier. The first point of switching (on either a resale or facilities basis) defines the underlying carrier that provides the first point of switching, but does not dictate from whom the end user has chosen to purchase its end-to-end local exchange service. With unbundled access, the local end user's local exchange carrier and the provider of the first point of switching are not necessarily one and the same.

[4] *See Administration of the North American Numbering Plan*, CC Dkt. 92-237 (Phase II), Reply Comments of Allnet Communication Services, Inc. (Jan. 27, 1993).

The Commission has exclusive jurisdiction over all interstate calling. The Act's limitations with respect to intraLATA calling apply only to the states, not to this Commission. *See* 47 U.S.C. § 271(e)(2)(B).

from the date of enactment of the Act.[5] The Commission should make clear that it fully intends to enforce that requirement.

The Commission correctly notes that the Act contains no specific timetable for implementation of dialing parity for non-Bell incumbent exchange carriers.[6] The Commission, however, may expand its existing requirements governing the implementation of equal access for interstate, interLATA calls[7] to encompass intraLATA toll calls. These rules require the non-Bell exchange carriers (other than GTE) to implement interLATA equal access within varying time frames in response to *bona fide* requests, depending upon the switching technology employed. These rules have worked well in the interLATA context. They should work equally well in the context of intraLATA equal access. They are, moreover, fully congruent with the Act's approach to rural telephone companies -- namely, absent the showing specified in the Act, such a company must meet the requirements set forth in the Act in response to a *bona fide* request and an appropriate determination by the affected state commission.[8]

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5 47 U.S.C. § 271(c)(3)(A).

6 Notice, ¶ 212.

7 *MTS and WATS Market Structure*, CC Dkt. 78-72 (Phase III), Report and Order, 100 FCC 2d 860 (1985).

8 47 U.S.C. § 251(f)(1)(A), (B).

To avoid requiring small telephone companies to implement intraLATA equal access in the absence of demand for the service, the Commission should require a requesting carrier to commit to the purchase of intraLATA equal access capabilities for a minimum period (two years, for example) as a part of its *bona fide* request.

The Commission should not require balloting and allocation for intraLATA equal access.[9] In Frontier's experience (both as an exchange and as an interexchange carrier), such procedures are of limited utility because of the conflict of interest the local exchange carrier has when contacting the end user about such matters. Furthermore, balloting can cause confusion. Thus, the Commission should permit individual competitors to communicate with and sign customers for their intraLATA toll services in ways that best suit their own needs.

Finally, the Commission's tentative conclusions[10] regarding non-discriminatory access to telephone numbers, directory listings and the like are correct. In particular, the Commission should ensure that the incumbent local exchange carrier provides the same services to its competitors that it provides to itself. In the Centrex resale context, for example, certain incumbent exchange carriers decline to offer the same directory listings (*e.g.*, one free white and normal-faced yellow pages listing) to the end-user customers of a Centrex reseller that they provide to their own end-user customers or refuse to brand resold operator services as the services of the reseller customer. These practices are facially inconsistent with the non-discrimination requirements of the Act and the Commission should specifically proscribe their continuation.[11]

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9 *See* Notice, ¶ 213.

10 *Id.*, ¶¶ 214-17.

11 The Commission also requests comment on the manner in which incumbent local exchange carriers should recover the costs of implementing the Act's dialing parity requirements. *Id.*,

Number Administration (Notice, § II(E)). Section 251(e)(1) requires the Commission to designate an independent third party to administer the North American Numbering Plan in the United States and vests in the Commission exclusive jurisdiction over that Plan. The Commission has already decided to select an impartial administrator.[12] To satisfy this requirement of the Act, the Commission need only follow through on this commitment without delay.

The Commission should retain plenary jurisdiction over all facets of numbering plan administration.[13] If the Commission wishes to leave the details of implementation to the states, Frontier has no objection. However, such implementation should be within the context of clearly-defined federal guidelines, such as those contained in the *Ameritech Order* with respect to area code relief.[14]

¶ 219. The Commission could (and should) borrow from its decision to implement an equal access recovery charge. *See Petitions for Recovery Equal Access and Network Reconfiguration Costs*, FCC 86-470, Memorandum Opinion and Order, 1 FCC Rcd. 434 (1986). The Commission could permit incumbent local exchange carriers to assess this charge on the basis of presubscribed intraLATA lines *including* those of the incumbent local exchange carrier itself.

12 *Administration of the North American Numbering Plan*, CC Dkt. 92-237, Report and Order, FCC 95-283 (July 13, 1995) ("NANP Order")

13 *See* Notice, ¶ 254.

14 *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, IAD File No. 94-102, Declaratory Ruling, 10 FCC Rcd. 4596 (1995), *recon pending*.

The Act is also clear that the costs of numbering administration be recovered in a competitively-neutral manner. The Commission correctly concludes (Notice, ¶ 259), the requirements it adopted in the NANP Order satisfy the Act.

Notice of Technical Changes (Notice, § II(C)(4)). The Commission has previously adopted regulations governing notice of technical network changes. The Commission's *Computer III* regime generally requires that competitors be notified of such changes at the make/buy point, but in no event less than six months prior to their implementation.[15] The Commission should adopt the same requirements to implement the relevant provision of the Act.[16]

Access to Rights-of-Way (Notice, § II(C)(4)). The Act requires that incumbent local exchange carriers (and other utilities) offer telecommunications carriers non-discriminatory access to poles, conduits and other rights-of-way.[17] In this context, the Commission seeks comment on the provisions of sections 224(f) and (h) of the Act.

Non-discrimination -- within the meaning of 224(f)(1) -- means what it says. An exchange carrier, for example, must afford its competitors access to rights-of-way on terms comparable to those it offers to itself or to its affiliates.[18]

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15 *See Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, CC Dkt. 85-229 (Phase II), Memorandum Opinion and Order on Reconsideration, 3 FCC Rcd. 1150, 1164 ¶ 116 (1988).

16 47 U.S.C. § 251(c)(5).

17 47 U.S.C. §§ 224, 251(b)(4).

18 The Commission should take into account the ownership interests that an exchange carrier possesses in its own property. However, while an exchange carrier may properly take its own needs into account in planning facilities additions, it should also be required to take into account the planned needs of its competitors. The Commission has adopted this approach in comparable circumstances. *See Expanded Interconnection with Local Telephone Company Facilities*, CC Dkt. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd. 7369, 7408, ¶ 79 (1992), *vacated sub nom. Bell Atlantic v. FCC*, 24 F.3d 1441 (D.C. Cir. 1994).

In addition, the reasons set forth in section 224(f)(2) for an electric utility to deny access on the basis of insufficient capacity or for "safety, reliability or generally applicable engineering purposes" are relatively self-explanatory. The Commission, however, should make clear that the focus of any such inquiry should be on the ability of the electric utility to provide electric service to its own customers. If the utility cannot sustain the burden of proof on these issues, then telecommunications carriers should be permitted access to the affected rights-of-way.

The Act's "notification" and "proportionate share" requirements[19] should not be the subject of significant controversy. The number of users of a particular right-of-way facility is not likely to be large. Users today routinely share information on planned upgrades, changes or modifications to existing facilities. The Commission should permit affected parties to negotiate the terms of notice in their occupancy agreements, subject only to the requirement that all users be notified at the same time.

The Commission may also utilize existing statutory provisions to implement the Act's requirement that each user bear its proportionate share of the costs of upgrades, changes or modifications. The existing pole attachment provisions require each user to bear its share of the costs of the usable portions of the pole space that it occupies.[20] The Act also

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19 Notice, ¶ 225.

20 *See* 47 U.S.C. § 224(d)(1).

These requirements also apply until the Commission promulgates regulations governing the rates for occupancy of rights-of-way. 47 U.S.C. § 224(d)(3).

prescribes a methodology for allocating the costs of the non-usable portions of rights-of-way facilities.[21] The Commission should utilize the same, combined methodologies to assign responsibility among users for the costs of upgrading, changing or modifying right-of-way facilities. Thus, users, including the owner, would pay for the costs of upgrades, changes or modifications to rights-of-way facilities in the same proportion that they pay for occupancy of such facilities.[22]

For the foregoing reasons, the Commission should respond to the proposals contained in the Notice in the manner suggested herein.

Respectfully submitted,

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May 17, 1996

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21 47 U.S.C. § 224(e)(2).

22 If the Commission, in the future, alters the manner in which it calculates rates for occupancy (see Notice, ¶ 221), it should apply that methodology to the allocation of costs of upgrading, changing or modifying rights-of-way facilities.